IN THE HIGH COURT OF UTTARAKAHAND AT NAINITAL

Writ Petition No. 6919(S/S)2001

(Old no. 3399 of 1985)

Sri Madan Mohan Kandpal S/o Sri Ghanshyam,
Peon, Intermediate College, Kimsar Patti Palla,
Udaipur, District-Pauri Garhwal. ---- Petitioner

Vs.

1. U.P. State, through Education Director,
   U.P. Allahabad,
2. District Inspector of Schools, Pauri Garhwal,
3. Principal, Intermediate College, Kamsar Patti Palla,
   Udaipur, District Parui Garhwal
4. Manager, Intermediate College, Kimsar Patti Palla,
   Udaipur, District Pauri Garhwal,
5. Munsif Magistrate, Lansdown Garhwal,
6. District Judge, Pauri Garhwal,
7. Sri Dabal Singh Rawat, Intermediate College,
   Kimsar Patti Palla, Udaipur,
   District Pauri Garhwal, ---- Respondents.

Sri Bipin Mohan Pingal, learned counsel for the petitioner.
Sri H.M. Raturi, learned Standing Counsel for the State of Uttarakhand/ respondent nos. 2, 5 & 6.
And Sri B.P. Nautiyal, learned counsel for respondent no. 7.
None for respondent nos. 1, 3, & 4.

Hon'ble M.M. Ghildiyal, J,

Heard Sri Bipin Mohan Pingal, learned counsel for the petitioner. Sri H.M. Raturi, learned Standing Counsel for the State of Uttarakhand/ respondent nos. 2, 5 & 6.And Sri B.P. Nautiyal, learned counsel for respondent no. 7. None for respondent nos. 1, 3, & 4.

By means of this writ petition, the petitioner has prayed to issue a writ of certiorari quashing of the impugned order dated

01.02.1982 by which the respondent no. 7 was provided promotion on the post of Clerk from Class IV post.

Stand of the petitioner is that the petitioner, as well as respondent no. 7, both were appointed on 01.08.1976 as Peon in the Institution known as Intermediate College, Kimsar, Patti Pall, Udaipur, Distrcit Pauri Garhwal.

In the year 1981, the said Institution was upgraded into Intermediate College. In 1982 a seniority list was prepared by the Committee of Management, in with the name of the petitioner find figure at serial no. 14 whereas the name of respondent no. 7 find figure at serial no. 15. Though the petitioner is senior to respondent no. 7, but the respondent no. 7 has been provided promotion from Class IV post to Class III post. Promotion of the respondent no. 7 was approved by the respondent no 2, i.e. by the District Inspector of Schools, Pauri Garhwal.

The petitioner is claming that he is senior in the age to respondent no. 7 because as per the records, his date of birth is 15.12.1948 whereas the date of birth of respondent no. 7 is 12.07.1952, thus the petitioner is entitled to be promoted.

In the instant petition, the matter of seniority is involved between two employees of the same Institution, therefore the respondent no. 2/ District Inspector of Schools, Pauri Garhwal shall decide this question, after ascertaining and verifying from the service records, that either who is senior employees of the Institution form the two , namely the petitioner or respondent no. 7. In case, the District Inspector of Schools comes to the conclusion after going through the records that the

petitioner is senior employees to the respondent no. 7, in that case, the District Inspector of Schools may pass appropriate orders in accordance with Rules within a reasonable period, as to who is the eligible person, from the both of two, to the promoted to the post of Clerk.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghilidyal, J.)

May 7,2007:
NCM: